## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

SURGICAL INSTRUMENT SERVICE COMPANY, INC.,

Plaintiff,

v.

INTUITIVE SURGICAL, INC.,

Defendant.

Case No. 21-cv-03496-AMO

**JURY VERDICT FORM** 

United States District Court	Northern District of California
	North

1	SIS'S CLAIMS	
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3	Question 1	
4	Did SIS prove, by a preponderance of the evidence, that there is a relevant market limited to surgical robots used in minimally invasive soft tissue (or "MIST") surgery in the United States?	
5		
6	Yes No	
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8	Question 2	
9	Did SIS prove, by a preponderance of the evidence, that there is a relevant aftermarket limited to replacement and repaired EndoWrist instruments in the United States?	
10		
11	Yes No	
12		
13	If you answered "No" to either <u>Question 1</u> or <u>Question 2</u> , then SIS has not proved any of i claims and you are finished with your deliberations with respect to all of SIS's claims; you must proceed to <u>Question 10</u> to begin your deliberations regarding Intuitive's claims. If y	
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15	answered "Yes" to both <u>Question 1</u> and <u>Question 2</u> , then you must proceed to <u>Question 3</u> .	
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17	Question 3  Did SIS prove, by a preponderance of the evidence, all of the elements of an unlawful tying	
18	arrangement, according to the elements set forth in Instruction 22 of the Court's Jury Instructions's	
19		
20	Yes No	
21	If you array and "No" to Oraction 2 than CIC has not array alite tring claim, and you are	
22	If you answered "No" to <u>Question 3</u> , then SIS has not proved its tying claim, and you are finished with your deliberations with respect to this claim; you must proceed to <u>Question 5</u>	
23	to begin your deliberations regarding SIS's exclusive dealing claim. If you answered "Yes" to <u>Question 3</u> , then you must go on to answer <u>Question 4</u> .	
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1	Question 4	
2	Did Intuitive prove, by a preponderance of the evidence, a business justification for the alleged tying arrangement, according to Instruction 30 of the Court's Jury Instructions?	
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4	Yes No	
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6	If you answered "Yes" to <u>Question 4</u> , then SIS has not proved its tying claim, and you are finished with your deliberations with respect to this claim. If you answered "No" to	
7	Question 4, then you must address SIS's injury and damages in Question 9 and Question 10	
8	Either way, you must first proceed to <u>Question 5</u> to begin your deliberations regarding SIS's exclusive dealing claim.	
9		
10	Question 5	
11	Did SIS prove, by a preponderance of the evidence, all of the elements of an unlawful exclusive dealing arrangement, according to the elements set forth in Instruction 31 of the Court's Jury	
12	Instructions?	
13		
14	Yes No	
15	If you answered "No" to Question 5, then SIS has not proved its exclusive dealing claim, and	
16	you are finished with your deliberations with respect to this claim. If you answered "Yes" to	
17	Question 5, then you must address SIS's injury and damages in Question 8 and Question 9. Either way, you must first proceed to Question 6 to begin your deliberations regarding SIS	
18	monopolization claim.	
19		
20	Question 6  Did SIS prove, by a preponderance of the evidence, all of the elements of unlawful	
21	monopolization, according to the elements set forth in Instruction 38 of the Court's Jury Instructions?	
22	instructions:	
23	Yes No	
24	105	
25	If you answered "No" to Question 6, then SIS has not proved its monopolization claim and	
26	you are finished with your deliberations with respect to this claim. If you answered "Yes" to <u>Question 6</u> , then you must address SIS's injury and damages in <u>Question 8</u> and <u>Question 9</u> .	
27	Either way, you must first proceed to <u>Question 7</u> to begin your deliberations regarding SIS's attempted monopolization claim.	

**Question 7** 

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2	Did SIS prove, by a preponderance of the evidence, all of the elements of unlawful attempted monopolization, according to the elements set forth in Instruction 44 of the Court's Jury	
3	Instructions?	
4		
5	Yes No	
6	If you answered "No" to Question 7, then SIS has not proved its attempted monopolization	
7	claim, and you are finished with your deliberations with respect to this claim. If you	
8	answered "Yes" to <u>Question 7</u> , then you must address SIS's injury and damages in <u>Question 8</u> and <u>Question 9</u> .	
9		
10	Question 8	
11	If your answers to the prior Questions have resulted in a finding that SIS has not proved any of its claims, then you are finished with your deliberations with respect to SIS's claims and you must proceed to Question 10 to begin your deliberations regarding Intuitive's claims.	
12		
13	Otherwise, you must answer this Question.	
14	Did SIS prove, by a preponderance of the evidence, all of the elements of injury and causation,	
15	according to the elements set forth in Instructions 48-50 of the Court's Jury Instructions?	
16		
17	Yes No	
18	If you answered "No" to Question 8 then SIS has not proved any of its claims and you are	
19	If you answered "No" to <u>Question 8</u> , then SIS has not proved any of its claims and you are finished with your deliberations with respect to SIS's claims; you must proceed to <u>Question</u>	
20	10 to begin your deliberations regarding Intuitive's claims. If you answered "Yes" to Question 8, then you must go on to answer Question 9.	
21		
22	Question 9	
23	What amount, if any, do you award to SIS as compensatory damages for its claims, in accord with Instructions 52-57 of the Court's Jury Instructions?	
24	mstructions 32-37 of the Court's July instructions:	
	\$	
25	Ψ	
<ul><li>26</li><li>27</li></ul>	You have now completed your deliberations with respect to SIS's claims. You must now proceed to <u>Question 10</u> to begin your deliberations regarding Intuitive's claims.	

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INTUITIVE'S	<b>CLAIMS</b>

## **Question 10**

Did Intuitive prove, by a preponderance of the evidence, all of the elements of unfair competition
and false advertising under the Lanham Act, according to Instruction 59 of the Court's Jury
Instructions?

Yes	No

If you answered "No" to Question 10, then Intuitive has not proved its claim for unfair competition and false advertising under the Lanham Act, and you are finished with your deliberations with respect to this claim. If you answered "Yes" to Question 10, then you must address Intuitive's damages in Question 13. Either way, you must proceed to Question 11 to begin your deliberations regarding Intuitive's claim for unfair competition.

## **Question 11**

Did Intuitive prove, by a preponderance of the evidence, all of the elements of unfair competition, according to the elements set forth in Instruction 63 of the Court's Jury Instructions?

Yes	No

If you answered "No" to Question 11, then Intuitive has not proved its unfair competition claim and you are finished with your deliberations with respect to this claim. If you answered "Yes" to Question 11, then you must address Intuitive's damages in Question 13. Either way, you must first proceed to Question 12 to begin your deliberations regarding Intuitive's tortious interference with contract claim.

## **Question 12**

Did Intuitive prove, by a preponderance of the evidence, all of the elements of tortious interference with contract, according to the elements set forth in Instruction 64 of the Court's Jury **Instructions?** 

Yes	No
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If you answered "No" to Question 12, then Intuitive has not proved its tortious interference with contract claim and you are finished with your deliberations with respect to this claim. If you answered "Yes" to Question 12, then you must go on to address Intuitive's damages in Question 13.

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Question 13  If your answers to the prior Questions have resulted in a finding that Intuitive has not proved any of its claims, then you are finished with your deliberations with respect to Intuitive's claims. Otherwise, you must answer this Question.		
What amount, if any, do you award to Intuitive a with Instruction 65 of the Court's Jury Instruction	as compensatory damages for its claims, in according?	
\$		
You have now completed your deliberations v	vith respect to Intuitive's claims.	
The Foreperson should sign and date this Verdict Form and inform the Courtroom Deputy that a unanimous verdict has been reached.		
Dated: By:	Jury Foreperson	